

HARRIS BEACH PLLC
ATTORNEYS AT LAW

December 22, 2011

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DOUGLAS A. FOSS

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DFOSS@HARRISBEACH.COM**VIA ECF FILING**Hon. William D. Wall
U.S. Magistrate Judge
Alfonse M. D'Amato U.S. Courthouse
100 Federal Plaza
Central Islip, New York 11722-4449Re: Financial Life Services, LLC v. N. Bergman Insurance Trust CV 10-4499
(DRH)(WDW)

Dear Judge Wall:

Pursuant to your direction, we are submitting the proposed order providing for disposition of the issues in the action. We also are forwarding the canceled check and acknowledgement of payment associated with the \$105,000 premium payment recently made by plaintiff to keep the Policy in effect. I mentioned the additional payment in the course of proceedings before the Court last week and already forwarded the documents to counsel for the defendant.

I have recalculated the amount of the judgment to reflect additional time and the additional payment. Following the framework in the September 22 Memorandum and Order and of your original Report and Recommendation filed on June 27, 2011, we believe that the following calculation would be correct for payments and accrued interest through December 31, 2011:

Date of Premium Payment	Payment Amount	Interest Owed Through December 31, 2011
12/15/09	\$64,500	\$12,438
3/1/10	\$95,700	\$16,567
3/10/10	\$115,000	\$19,625
5/5/10	\$86,100	\$13,380
8/10/10	\$57,400	\$7,403
12/20/10	\$105,000	\$9,765

December 22, 2011
Page 2

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4/4/11	\$88,676	\$6,008
6/21/11	\$110,000	\$5,308
9/8/11	\$129,000	\$3,676
12/8/11	\$105,000	\$604
Total:	\$956,376	\$94,774

The total of payments and prejudgment interest therefore is \$1,051,150. Your Report and Recommendation also set forth attorneys fees of \$17,999.50 and an award of costs equal to \$894.65. We believe that the judgment amount (as of December 31, 2011) therefore should be \$1,070,044.15 as set forth in the proposed order. The *per diem* interest rate on the total of the premium payments currently runs at \$239.09, which should allow recalculation on a far easier basis should you prefer a different operative date.

Although it should be apparent, the plaintiff waives the opportunity to submit additional materials for the attorneys fees incurred since your Report and Recommendation. It is much more interested in auctioning the Policy at the earliest opportunity.

Thank you for your consideration.

Respectfully,
HARRIS BEACH PLLC

/S/

Douglas A. Foss

DAF:mmd
Enc.

cc: Mark J. Nussbaum, Esq.